

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ELIZABETH FICKEL
Claimant

APPEAL NO: 09A-UI-16294-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES
Employer

OC: 07/05/09
Claimant: Appellant (4)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Elizabeth Fickel (claimant) appealed an unemployment insurance decision dated October 20, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Winnebago Industries (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Mason City, Iowa on December 11, 2009. The claimant participated in the hearing. The employer did not participate in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time welder from August 9, 1993 through September 25, 2009. She gave notice on September 14, 2009 that she would be retiring effective September 25, 2009. The employer had no available work for the claimant from September 21, 2009 through September 25, 2009.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(24) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

The claimant gave notice that she would be retiring effective September 25, 2009. A voluntary separation due to retirement is disqualifying. However, the employer had no work available for the claimant from September 21, 2009 through September 25, 2009 even though she was available for work that week. Consequently, the claimant is entitled to benefits for the one-week period ending September 25, 2009 and is disqualified after that date.

DECISION:

The unemployment insurance decision dated October 20, 2009, reference 01, is modified in favor of the appellant. The claimant qualifies for benefits for the one-week period ending September 25, 2009 since no work was available. Benefits are denied after that date because the claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css